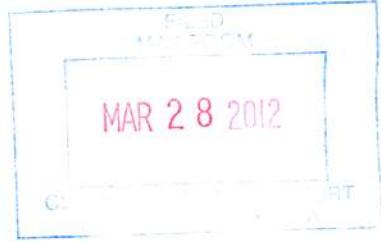


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



UNITED STATES V. ELAINE CIONI
Case Number 1:10CR6089 1:08CR 239(GBL)

**AMENDED MOTION TO FILE 2255 MOTION IN FORMA PAUPERIS
AND LEAVE TO FILE MOTION 2255 PRO SE IF MOTION TO FILE IN FORMA
PAUPERIS IS DENIED**

Elaine Cioni, Pro Se, moves this court to allow me to proceed In Forma Pauperis with appointment of counsel to file a motion under 28 USC § 2255. I am requesting appointment of counsel pursuant to 18 USC. §3006A(a)(2)(B). Financial Affidavit is attached.

Alternatively, if this court denies my motion to file motion 2255 In Forma Pauperis, I move this court to grant leave to file my 18 USC 2255 Motion Pro Se. I also move this court to grant access to PACER at no cost for purposes of review of docket entries and electronic filing in order to facilitate preparation and submission of my 2255 motion.

28 USC § 2255

(a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

I am still in "custody" as I am on supervised release under sentence of this court until April 5, 2012. A defendant need only satisfy the "custody" requirement at the time he or she files a §2255 motion.¹ Release from custody during the pendency of my §2255 motion does not make the case moot or divest a court of jurisdiction to hear the case.²

I *do not* wish to proceed Pro Se because I cannot afford an attorney and I am having difficulty discerning what is appropriate for review in a 2255 motion. In the interest of justice, please grant

¹ See *Balik v. United States*, 161 F.3d 1341 (11th Cir. 1998) (parole); *United States v. Brown*, 117 F.3d 471 (11th Cir. 1997) (supervised release).

² See, e.g., *United States v. Brown*, 117 F.3d 471 (11th Cir. 1997).

my motion to proceed In Forma Pauperis with appointment of counsel to file a motion under 28 USC § 2255.

Alternatively, if my request to file motion 2255 In Forma Pauperis is denied, please grant my request for leave to file my 18 USC 2255 Motion Pro Se. Also, please grant access to PACER at no cost for purposes of review of docket entries and electronic filing in order to facilitate preparation of my 2255 motion.

Respectfully Submitted,



Elaine Cioni
Pro Se
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Hixson, TN 37343
423-847-8686
elainecioni@hotmail.com

CERTIFICATE OF SERVICE

I certify that on March 24, 2012, I filed this motion with the Clerk of The Court via certified mail.

I certify that Jay Prabhu, Assistant U.S. Attorney for the Eastern District of Virginia, was not served with a copy of this motion as the conditions of my release specifically and strictly prohibit me from contacting him "...directly, indirectly or through a third party." (see attached *Waiver of Hearing to Modify Conditions of Supervised Release.*)



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PROB49
EDTN79 - 12/2006

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

**UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF TENNESSEE**

**Name of Offender: Elaine Robertson Cioni
Docket Number: 1:10CR06089-1**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By 'assistance of counsel', I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

Special Condition #5 modified to:

The defendant shall not contact any of the victims, witnesses, and/or Long & Foster victims, Assistant U.S. Attorney Jay Prabhu, FBI Agent Brenda Born and/or any other individuals involved in this case either directly, indirectly, or through any third party.

Special Condition #6 modified to:

The defendant shall not access any social networking sites on the Internet as listed by Wikipedia either directly or indirectly or through any third party.

Special Condition #7 modified to:

The defendant shall not attempt to alter or alter any origination information from a data transmission.

Add Special Condition #8:

If requested by the probation officer, the defendant shall submit to a search of all computer/communication systems to which she has access.

Add Special Condition #9:

The defendant shall not travel to the Eastern District of Virginia without prior approval from the Probation Office in the Eastern District of Virginia.

Witness:


U.S. Probation Officer

Signed:


Elaine Cioni
Probationer or Supervised Releasee

4/6/10
Date